

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ALLAH,)
Petitioner,) CASE NO. C07-760-TSZ-JPD
v.)
KAREN BRUNSON,) REPORT AND RECOMMENDATION
Respondent.)
_____)

On May 17, 2007, petitioner submitted to this Court for review a petition for writ of habeas corpus under 28 U.S.C. § 2241 in which he sought to challenge his 2002 King County Superior Court convictions. After reviewing the petition, this Court determined that petitioner had not demonstrated that any of his claims was eligible for federal habeas review. Accordingly, on June 1, 2007, this Court issued an order declining to serve petitioner's federal habeas petition and granting him leave to amend his petition to correct certain specified deficiencies.

Petitioner was advised in that Order that his petition, which was expressly filed under § 2241, must be construed as one brought pursuant to 28 U.S.C. § 2254 because § 2254 is the exclusive avenue for a state prisoner to challenge the constitutionality of his detention. *See White v. Lambert,*

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1 370 F.3d 1002, 1009 (9th Cir. 2004). Petitioner was further advised that, in order to obtain relief
2 under § 2254, he must demonstrate that each of his claims for federal habeas relief had been properly
3 exhausted in the state courts. The Court noted that nothing in the record suggested that petitioner had
4 exhausted his state court remedies with respect to any of his federal habeas claims. Finally, petitioner
5 was advised that, assuming he could demonstrate his claims had been properly exhausted, he would
6 also have to demonstrate that his petition was not time-barred under 28 U.S.C. § 2244(d).

7 Petitioner was granted thirty days within which to file an amended petition, and was advised
8 that his failure to timely amend would result in a recommendation that this action be dismissed. To
9 date, no amended petition has been filed.

10 As petitioner has not demonstrated that any of his federal habeas claims is eligible for federal
11 habeas review, this Court recommends that petitioner's federal habeas petition be dismissed. A
12 proposed order accompanies this Report and Recommendation.

13 DATED this 17th day of October, 2007.

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16 JAMES P. DONOHUE
17 United States Magistrate Judge
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